

Please add the following new claim:

A6

21. (new) The containment device recited in claim 1, wherein the canopy is made of a material resistive to hazardous chemicals.

**REMARKS**

In a June 4, 2001 telephone conversation, the Examiner required Applicant to elect a single disclosed invention from the following groups under 35 U.S.C. §121.

Group I: Figs. 3, 10, and 11;

Group II: Fig. 7;

Group III: Fig. 6; and

Group IV: Fig. 8.

Applicant affirms the election of the invention of Group I: Figs. 3, 10, 11 and claims 1-9, 13 and 20 that was made, with traverse, in the telephone conversation with the Examiner. Accordingly, claims 10-12 and 14-19 have been canceled, and Applicant reserves the right to present those claims in a divisional application.

In the June 18, 2001 Office Action, claims 1-20, and particularly claims 1, 6, 11, 12, and 20, are rejected under 35 U.S.C. §112, ¶ 2, as indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Claims 1-9 and 20 are rejected under 35 U.S.C. §102(b) as anticipated by Brown. Claim 13 is rejected under 35 U.S.C. §103(a) as unpatentable over Brown in view of Lobbert.

By this amendment, claims 10-12 and 14-19 are canceled, claims 1, 2, 4, 8, 13, and 20 are amended, and claim 21 is added. Thus, claims 1-9, 13, and 20-21 are pending in the application.

Claims 1-20, and particularly claims 1, 6, 11, 12, and 20, are rejected under 35 U.S.C. §112, ¶ 2, as indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

Applicant has canceled claims 11 and 12 and amended claims 1, 6, and 20 to obviate the grounds for the Examiner's rejection. Applicant therefore submits that claims 1-9 and 20 are definite and respectfully request that the Examiner withdraw the 35 U.S.C. §112, ¶ 2 rejection.

Claims 1-9 and 20 are rejected under 35 U.S.C. §102(b) as anticipated by Brown. Applicant respectfully traverses this rejection.

While Brown discloses a collapsible basket, it neither discloses nor suggests the claimed features of the present invention. For example, Brown fails to teach a rapid deploy containment device that collapses to a compact configuration, where all of the rods 16 and bars 15 are substantially parallel to one another, as recited by independent claims 1 and 20. (See Brown, Figs. 3 & 6). Such a collapsed configuration allows the containment device to compact to a structure having a planar surface area defined only by the set of hubs positioned adjacent one another. (See Fig. 1 of the present application, illustrating one such example of a collapsed compact configuration). Contrary to such a configuration, Brown teaches a structure where rods 16 and bars 15 are substantially perpendicular to one another in the collapsed configuration; thus, hindering the compactness of the basket, because its planar surface area is defined by not only the repositioned angle irons 11 and collapsed bars 15, but also the length of the rods 16. (See Brown, Figs. 3 & 6).

An anticipation rejection under 35 U.S.C. §102(b) requires that a single reference disclose every element of the claim subject to the rejection. MPEP §2131. Since the Brown reference fails to disclose a collapsed configuration where all of the rods and bars are substantially parallel to each other, it is respectfully asserted that Brown cannot anticipate the claims of the present invention.

The Brown reference also fails to teach a rapid deploy containment device adapted to receive and retain hazardous waste, as recited by independent claims 1 and 20. To the contrary, Brown teaches a collapsible basket designed for "use in laundries." (See Brown, col. 1, lines 1-3). The Examiner's interpretation of the Brown reference as encompassing "hazardous material such as dirty socks and other laundry" ignores Brown's disclosure as well as the claim recitations. It is well established that in claims directed to an article or apparatus, any phraseology in the preamble that limits the structure of that article or apparatus must be given weight. MPEP §2111.02. Hazardous waste is generally defined as "a substance that is potentially damaging to the environment and harmful to the health of humans and other living organisms." THE AMERICAN HERITAGE COLLEGE DICTIONARY, 3<sup>rd</sup> ed., p. 624 (1997). The Examiner has apparently misinterpreted this definition, because "dirty socks and other laundry" neither qualify as hazardous waste nor relate in any way to hazardous waste. Thus, the claims of the present invention are allowable over Brown for this additional reason.

Similarly, the Brown reference fails to render obvious the claims of the present invention under 35 U.S.C. §103(a). To establish a case of obviousness, all claim limitations must be taught or suggested by the prior art. MPEP §2143.03. As previously noted, Brown neither teaches nor suggests a rapid deploy containment device having a collapsed configuration where each of its rods and bars are substantially parallel to each other, or such a device adapted to receive and

retain hazardous waste. In the absence of such teachings, Brown cannot render obvious the claims of the present invention.

Claim 13 is rejected under 35 U.S.C. §103(a) as unpatentable over Brown in view of Lobbert. Applicant respectfully traverses this rejection.

As discussed above, Brown does not suggest that teachings recited in the claims of the present invention. Similarly, Lobbert fails to cure this deficiency. Lobbert discloses a waste receptacle device that includes a removable container and a lid that tightly closes the container. See Lobbert, col. 2, lines 43-63. In Lobbert, there is no teaching or suggestion of a rapid deploy containment device, *i.e.*, a device moveable between an erect open configuration and a collapsed compact configuration. In the absence of such disclosure, the Brown and Lobbert references, either alone or in combination, fail to teach the rapid deploy containment device recited in the claims of the present invention. As such, allowance of the claims of the present invention is respectfully requested.

New claim 21 is added to round out the protection to which Applicant is entitled. It depends from claim 1 and recites a unique combination including a canopy made of a material resistive to hazardous chemicals. Thus, it is respectfully requested that claim 21 be allowed for this additional reason.

In view of the foregoing amendments and remarks, Applicant respectfully requests the reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our Deposit Account 06-0916.

Respectfully submitted,

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APPENDIX TO AMENDMENT DATED SEPTEMBER 18, 2001

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Amendments to the Claims

Please amend claims 1, 2, 4, 8, 13 and 20, as follows:

1. (Once Amended) A rapid deploy containment device adapted to receive and retain [a] hazardous [material] waste, the containment device being moveable between an erect open configuration and a collapsed compact configuration, the containment device in the open configuration having a receptacle capable of receiving hazardous [materials] waste, the containment device comprising:

rods, each rod being pivotally joined to another rod by a scissors connection intermediate the ends of said rod;

hubs, each hub receiving an end portion of at least two rods along separate axes of each hub, said rods being pivotally joined to said hubs, where each of said rods pivot in relation, to said hub along a single axis of [rotation] revolution,

said rods being rotatable about the single axis of revolution from the collapsed configuration, where all of said rods are substantially parallel to one another, to the erect open configuration; and

a canopy connected to at least two hubs and residing in the receptacle of the erect containment device.

2. (Once amended) The containment device recited in claim 1, wherein each of said hubs includes flanges, [said] where at least two of the flanges [receiving] receive the ends of said rods.

4. (Once amended) The containment device recited in claim 2, wherein the at least two [of said] flanges lay substantially perpendicular to one another, whereby each of said hubs receives rods along a first axis and a second axis perpendicular to the first axis.

8. (Once amended) The containment device recited in claim 2, wherein said hub includes a base portion, [said] where the at least two flanges [projecting] project from said base portion.

13. (Once amended) The containment device recited in claim 1, further comprising a liner positioned in the receptacle adjacent said canopy[.] , said liner being made of a material resistive to hazardous chemicals.

20. (Once amended) A rapid deploy containment device adapted to receive and retain hazardous [material] waste, the containment device being [convertable] convertible between an erect open configuration and a collapsed compact configuration, the containment device in the open configuration having a receptacle region capable of receiving and retaining hazardous [materials] waste, the containment device comprising:

rods, each rod being pivotally joined to another rod by a scissors connection intermediate the ends of said rod;

hubs, each hub receiving an end portion of at least two rods along separate axes of each hub, said rods being pivotally joined to said hubs, where each of said rods pivot in relation to said hub along a single axis of [rotation] revolution,

said rods being rotatable about the single axis of revolution from the collapsed configuration, where all of said rods are substantially parallel to one another and where said hubs are positioned adjacent one another at each end portion of the collapsed configuration, to the open erect configuration, where the hubs positioned proximate the top portion of the collapsed configuration descend downward toward the bottom portion of the containment device when converting from the collapsed configuration to the erect configuration; and

a canopy affixed to at least two hubs proximate the upper portion of the containment device in the open erect configuration to form the receptacle region capable of receiving and retaining hazardous [materials] chemicals.